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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Reorganization and Revision of)
Parts 1, 2, 21, and 94 of)
the Rules to Establish a New)
Part 101 Governing Terrestrial)
Microwave Fixed Radio Services)

WT Docket No. 94-148

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REPLY COMMENTS OF GTE

GTE Service Corporation, on
behalf of its telephone and
wireless companies

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March 17, 1995

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SUMMARY

In the Notice of Proposed Rulemaking ("Notice") in this proceeding, the Commission solicited commenters' views on several proposals aimed at simplifying the regulations applicable to common carrier and private operational fixed microwave operations. As indicated in its comments, GTE generally supports the proposals set forth in the *Notice*, as well as most of the specific rules delineated in proposed Part 101. After reviewing the opening comments filed in response to the Notice, however, GTE remains convinced that, in order to accomplish the objectives that prompted the adoption of the *Notice*, the Commission must take additional steps to clarify and conform the requirements applicable to private and common carrier microwave applicants and licensees. In this connection, GTE reiterates its requests that the Commission:

- combine the technical standards governing private operational fixed microwave facilities and common carrier point-to-point microwave facilities into a single subpart and apply these and other requirements consistently and uniformly to both service categories; and
- amend proposed Section 101.21 concerning frequency coordination to include both common carrier and private microwave applications and to define in detail each item of technical information to be contained in applications submitted for both common carrier and private microwave authorizations.

In addition, consistent with its position in other rulemaking contexts, GTE encourages the Commission to adopt rules and policies that will promote flexibility in the design, offering, and operation of services provided by all Part 101 licensees. Accordingly, GTE supports the elimination of the existing restrictions preventing common carrier and non-common carrier use and licensing of microwave transmitters.

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REPLY COMMENTS OF GTE

GTE Service Corporation ("GTE"), on behalf of its telephone and wireless companies, hereby submits its reply to the comments filed in response to the above-captioned Notice of Proposed Rulemaking.¹ In the *Notice*, the Commission solicited commenters' views on a number of proposals aimed at simplifying the regulations applicable to common carrier and private operational fixed microwave operations by consolidating the rules contained in Parts 21 and 94 into a new Part 101, restructuring the rules to make them easier to understand, conforming similar rule provisions, eliminating redundancy, removing obsolete language, and lifting unnecessary regulatory requirements and policies.

As indicated in its opening comments, GTE generally supports the proposals set forth in the *Notice*, as well as most of the specific rules delineated in proposed Part 101. After reviewing all of the opening comments, however, GTE continues to believe that the Commission will best accomplish the objectives that prompted the adoption of the *Notice* if it takes additional steps to clarify and conform the requirements applicable to

¹ Reorganization and Revision of Parts 1, 2, 21, and 94 of the Rules to Establish a New Part 101 Governing Terrestrial Microwave Fixed Radio Services, FCC 94-314 (Dec. 28, 1994) ("Notice").

private and common carrier microwave applicants and licensees. In particular, GTE reiterates its requests that the Commission: (1) combine the technical standards governing private operational fixed microwave facilities and common carrier point-to-point microwave facilities into a single subpart and apply these and other requirements consistently and uniformly to both service categories; and (2) amend proposed Section 101.21 concerning frequency coordination to include both common carrier and private microwave applications and to define in detail each item of technical information to be contained in applications submitted for both common carrier and private microwave authorizations.

In addition, consistent with its position in the context of the formulation of rules applicable to Commercial Mobile Radio Service ("CMRS") licensees, GTE encourages the Commission to embrace rules and policies that will promote flexibility in the design, offering, and operation of services provided by licensees regulated under Part 101. Accordingly, GTE supports the suggestion of certain commenters urging the Commission to allow common carrier and non-common carrier use and licensing of microwave facilities currently authorized under Part 21.

I. THE RECORD SUPPORTS CONSOLIDATION OF THE TECHNICAL STANDARDS GOVERNING PRIVATE OPERATIONAL FIXED MICROWAVE FACILITIES AND COMMON CARRIER POINT-TO-POINT FACILITIES INTO A SINGLE SUBPART AND THE USE OF UNIFORM RULES FOR BOTH SERVICE CATEGORIES.

In its opening comments, GTE urged the Commission to revise proposed Part 101 by combining all of the technical standards applicable to private operational fixed microwave facilities and common carrier point-to-point microwave facilities in a single subpart.² Under the Commission's proposed structure for Part 101, most of the technical rules applicable to both private operational fixed and common carrier

² Comments of GTE at 4.

microwave facilities are contained in Subpart C. Certain of these rules are, however, duplicated in the separate subparts designed to contain the rules unique to either private operational fixed licensees (Subpart H) or common carrier point-to-point microwave licensees (Subpart I), as the case may be. In addition, in some instances, technical standards contained in either Subpart H or Subpart I are omitted from Subpart C.³

Subpart C is captioned "Technical Operation" and by all indications is meant to serve as a comprehensive compilation of the technical rules applicable to both private and common carrier microwave operations regulated under Part 101. The proposed placement of the technical rules in various subparts, however, is unnecessarily confusing and inconsistent with the objectives underlying the *Notice*. In recognition of this fact, the overwhelming majority of the commenters addressing the issue support consolidation of the technical rules governing private and common carrier microwave licensees into a single subpart — Subpart C — and removal of these rules from Subparts H and I.⁴ Consolidation of the technical requirements in a single comprehensive subpart will promote the Commission's goals by making the fixed microwave rules easier to understand, eliminating redundancy, and helping to reduce

³ A number of inconsistencies between the technical standards in proposed Subpart C and Subparts H and I are identified in the Joint Comments of National Spectrum Managers Association, Inc., and Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association ("TIA/NSMA") at 9-10.

⁴ See, e.g., Comments of Alcatel Network Systems 2; Comments of the American Petroleum Institute at 14; Comments of BellSouth Corp. at 5; Comments of C.S.I. Telecommunications at 2; Comments of Harris Corporation-Farion Division at 2; Comments of TIA/NSMA at 8-10; Comments of SBC Communications, Inc., at 4; Comments of UTC at 3-4.

the possibility for unintentional inconsistencies in the rules applicable to private and common carrier microwave operations.⁵

Most commenters also agree that, to the greatest extent possible, the technical and other requirements applicable to private and common carrier fixed microwave facilities should be consistently and uniformly applied to both service categories.⁶ In this regard, the commenters stress the need for uniform application, authorization, and construction requirements, and urge the Commission to amend the proposed rules where necessary to provide for consistent regulations with regard to eligibility for temporary fixed authorizations, a single set of application content requirements, and use of the same application form.⁷

GTE similarly supports the use of uniform rules to govern the operations of common carrier and private operational fixed microwave licensees.⁸ Significantly, the comments reflect a particular necessity for the use of a single application form for both types of services. As stated in the comments filed by TIA/NSMA, "[c]onsolidation of Parts 21 and 94 and adoption of Part 101 is a singular event and must be

⁵ See Comments of TIA/NSMA at 8; Comments of UTC at 3-4. GTE agrees with those commenters who suggest that separate subparts should be retained for the non-technical rules used to govern the Private Operational Fixed Microwave Service and the Point-to-Point Microwave Radio Service. See, e.g., Comments of C.S.I. Telecommunications at 2; Comments of SBC at 4.

⁶ See, e.g., Comments of Alcatel Network Systems at 2; Comments of Central and South West Services, Inc., at 3; Comments of Comsearch at 3; Comments of C.S.I. Telecommunications at 2; Comments of TIA/NSMA at 8.

⁷ See, e.g., Comments of Alcatel Network Systems at 3; Comments of C.S.I. Telecommunications at 2; Comments of Harris Corporation-Farion Division at 2; Comments of TIA/NSMA at 8-10, 12; Comments of SBC Communications, Inc., at 4, 6-7, 9; Comments of UTC at 4-5, 9 (application form, construction period); Comments of Western Multiplex Corporation at 3. Under the proposal in the Notice, common carrier and private operational fixed microwave users will, for the most part, share similar technical requirements.

⁸ See Comments of GTE at 3-6.

comprehensive. Unifying application processing without unifying the application form makes no sense.”⁹ Similarly, other commenters indicate that the use of a single application form will “greatly simplify the application process,”¹⁰ and is a “vital component in streamlining the application and licensing process.”¹¹ Likewise, in support of its recommendation that a unified application form be used for both private operational fixed and common carrier microwave operations, UTC notes that both types of applications are processed by the same staff and that, in view of the “convergence of most of the technical rules relating to fixed microwave, there is little reason to require the use of separate application forms.”¹² In addition, UTC states that “[u]se of a common form should . . . facilitate the maintenance of a common licensing database,” “ease the transition to electronic filing,” and “reduce application errors by shortening the learning curve for applicants and engineering consultants who prepare both . . . [types of] applications.”¹³

In light of the above, GTE submits that the record supports the use of a single application form for both private operational fixed and common carrier microwave operations. Furthermore, GTE agrees with TIA/NSMA’s suggestion that the format for the application form should be developed through Commission participation with industry members in an open notice and comment proceeding.¹⁴ This will permit the greatest amount of input from interested parties and ensure that the application form ultimately adopted contains all of the information viewed as necessary by affected industry members.

⁹ Comments of TIA/NSMA at 12.

¹⁰ Comments of Pacific Bell, Nevada Bell, and Pacific Bell Mobile Services at 4.

¹¹ Comments of Comsearch at 7.

¹² Comments of UTC at 4.

¹³ *Id.* at 4-5 (quotation marks omitted).

¹⁴ See Comments of TIA/NSMA at 12.

II. IT IS ESSENTIAL FOR PROPER FREQUENCY COORDINATION AND DATA BASE MAINTENANCE THAT THE COMMISSION EXPAND PROPOSED SECTION 101.21 TO INCLUDE BOTH COMMON CARRIER AND PRIVATE MICROWAVE APPLICATIONS AND THAT THE RULE BE AMENDED TO DETAIL EACH ITEM OF TECHNICAL INFORMATION TO BE CONTAINED IN THE APPLICATIONS.

GTE reiterates its recommendation that a single rule be used to spell out in full the technical content of applications filed by both private operational fixed and common carrier point-to-point microwave operators. As mentioned in GTE's opening comments, this can be accomplished by expanding proposed Section 101.21, which discusses the technical content of common carrier applications only, to include private microwave applications as well.¹⁵

In addition, GTE wishes to re-emphasize the importance of its suggestion that proposed Section 101.21 be amended so that the rule states in detail each item of technical information to be contained in the applications submitted for both private and common carrier microwave authorizations.¹⁶ As discussed in GTE's comments as well as those of TIA/NSMA, in its current form, proposed Section 101.21 specifies the technical content required of applicants merely by referring to "all technical information required by the application form and any additional information necessary to fully describe the proposed facilities and to demonstrate compliance with all technical requirements of the rules governing the radio service involved."¹⁷ As proposed, the rule is insufficiently precise to permit proper frequency coordination and data base maintenance and, as a result, could create a significant potential for interference. Accordingly, it is imperative that the Commission specify all technical content requirements in detail so that applicants understand what is required of them. An explicit and precise explanation of the technical content requirements expected of

¹⁵ Comments of GTE at 3.

¹⁶ *Id.* at 4; *see also* Comments of TIA/NSMA at 12-14.

¹⁷ Comments of GTE at 4; Comments of TIA/NSMA at 13.

applicants will in turn permit the maintenance of an accurate data base and will allow meaningful frequency coordination procedures to be conducted, thereby facilitating effective future licensing. In addition, entities seeking to modify existing or to establish new microwave paths will be able to obtain necessary technical information about nearby facilities in order to design interference-free operations.

III. THE RECORD SUPPORTS MAXIMUM FLEXIBILITY IN THE DESIGN, OFFERING, AND OPERATION OF SERVICES PROVIDED BY ALL PART 101 LICENSEES.

As noted in UTC's comments, Part 94 currently states that facilities licensed in the private operational fixed microwave service may not be used to render common carrier communications services.¹⁸ Similarly, Part 21 has been interpreted to restrict the use of common carrier microwave facilities to the rendition of common carrier communications services and explicitly provides that transmitters licensed in the common carrier microwave services may not be concurrently licensed or used for non-common carrier communications purposes, except in the Multipoint Distribution Service.¹⁹ The Commission has proposed to retain these limitations in Part 101.²⁰

In its comments, UTC urges the Commission to amend Part 101 as proposed to eliminate these restrictions. In particular, UTC recommends that the Commission clarify the permissible uses of both private and common carrier microwave facilities in terms of the licensee's principal use of the facility.²¹ In addition, UTC supports elimination of the restriction on the use of common carrier transmitters for non-common

¹⁸ See 47 C.F.R. § 94.9(b)(1); Comments of UTC at 11-12.

¹⁹ See Comments of UTC at 11-13; 47 C.F.R. § 21.119.

²⁰ Proposed Section 101.603(b)(1) contains the limitation currently contained in 47 C.F.R. § 94.9(b)(1); proposed Section 101.135(a)(1) contains the limitations currently contained in 47 C.F.R. § 94.17(a)(1); and proposed Section 101.333(a) contains the limitation currently contained in 47 C.F.R. § 21.119.

²¹ Comments of UTC at 15-16.

carrier purposes.²² UTC contends that, because most microwave bands are available on nearly equal terms to entities in private and common carrier services, the historical reasons for the restrictions on permissible operations have largely disappeared.²³ UTC also argues that its suggested rule changes will eliminate unnecessary questions with regard to the eligibility of reclassified CMRS licensees for "private" microwave spectrum and will promote the efficient use of spectrum by reducing the need for the construction of duplicative facilities by entities that use microwave operations for both common carrier and private communications.²⁴ Similarly, both The Southern Company and Metropolitan Water District of Southern California support elimination of the prohibition on the licensing or use of common carrier microwave transmitters for non-common carrier purposes.²⁵

GTE has repeatedly encouraged the implementation of FCC licensing policies based on a philosophy of maximum open entry opportunities and minimal limitations on the parameters of a given licensee's operations.²⁶ Consistent with this approach, GTE urges the Commission to adopt rules and policies that will promote flexibility in the design, offering, and operation of services offered by Part 101 licensees. Accordingly, GTE supports UTC's suggestion that the Commission amend proposed Part 101 to eliminate the restrictions preventing common carrier and non-common carrier use and licensing of microwave transmitters. GTE firmly believes that the adoption of rule changes to this effect will promote the public interest by allowing affected service

²² *Id.*

²³ *Id.* at 12-13.

²⁴ *Id.* at 14-16.

²⁵ See Comments of The Southern Company at 7-10; Comments of Metropolitan Water District of Southern California at 7-9.

²⁶ See Comments of GTE, GN Docket No. 93-252 (Regulatory Treatment of Mobile Services) (filed June 20, 1994).

providers to devise and deliver service packages responsive to the specific needs of individual customers, enabling the implementation of new technologies and technological refinements as they develop, and generating sources of competition not anticipated or foreseen by the Commission.

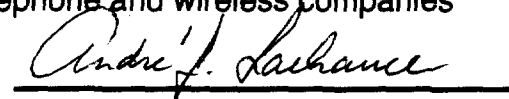
IV. CONCLUSION.

The opening comments reflect broad support for the Commission's proposals to simplify the regulatory process as applied to private operational fixed and common carrier microwave operations and to codify the rules currently contained in Parts 21 and 94 in a single rule part, Part 101. The comments indicate, however, that the Commission's goals will be achieved most effectively if the agency takes additional steps to clarify and conform the rules applicable to private and common carrier microwave operations, and to promote maximum flexibility in the affected carriers' operations. To this end, GTE urges the Commission to adopt the modifications set forth in GTE's opening comments and these reply comments.

Respectfully submitted,

GTE Service Corporation, on behalf of
its telephone and wireless companies

By:



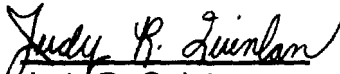
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March 17, 1995

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Certificate of Service

I, Judy R. Quinlan, hereby certify that copies of the foregoing "Reply Comments of GTE" have been mailed by first class United States mail, postage prepaid, on the 17th day of March, 1995 to all parties of record.


Judy R. Quinlan